

and we don't allow a new national energy tax to be imposed on the American people. These things are all going to cost average Americans and families enormous amounts of money at a time when they are trying to keep their jobs and trying to make ends meet and trying to balance their own budgets at home.

The American government—their government—ought to be doing what it can to balance its own budget and not spending like drunken sailors and borrowing from future generations in a way that will put the future of many Americans—many American families—at risk.

Madam President, I yield the floor and the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, I will yield back the remaining time on the Democratic side.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2892, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2892) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010 and for other purposes.

Pending:

Reid (for Byrd/Inouye) amendment No. 1373, in the nature of a substitute.

Vitter modified amendment No. 1375 (to amendment No. 1373) to prohibit amounts made available under this Act from being used to amend the final rule to hold employers accountable if they hire illegal aliens.

Grassley amendment No. 1415 (to amendment No. 1373), to authorize employers to voluntarily verify the immigration status of existing employees.

Kyl/McCain amendment No. 1432 (to amendment No. 1373), to strike the earmark for the City of Whitefish Emergency Operations Center.

Hatch amendment No. 1428 (to amendment No. 1373), to amend the Immigration and Nationality Act to extend the religious workers and Conrad-30 visa programs, to protect orphans and widows with pending or approved visa petitions.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mrs. MURRAY. I ask unanimous consent the vote in relation to the Kyl amendment No. 1432 occur at 11:30 a.m., with the provisions of the previous order governing consideration of this amendment remaining in effect.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMENDMENT NO. 1375, AS MODIFIED

Mrs. MURRAY. Madam President, I ask unanimous consent the Vitter amendment No. 1375 now be the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Madam President, I rise to voice my reservations with Vitter amendment No. 1375.

The Vitter amendment would prohibit any funds in the Homeland Security Appropriations bill from being used to change the Bush administration's "no-match" letter regulation. This controversial regulation deals with the obligations of employers who receive what are known as no-match letters from the Social Security Administration.

The Social Security Administration sends no-match letters to employers when a Social Security number or other information provided by an employee does not match the agency's records. This is part of the Social Security Administration's efforts to improve the accuracy of their records, but the Bush administration wanted to use no-match letters to get the Social Security Administration involved with enforcing our immigration laws. The theory was that an employee whose information doesn't match the Social Security Administration's database is probably an illegal immigrant. However, the reality is that the vast majority of people whose data does not match the Social Security Administration's information are U.S. citizens who changed their name when they married or whose information is wrong due to typographical or other clerical errors.

The Bush administration's no-match rule would make employers liable if they fail to take action on a no-match notice, even though no-matches are often caused by database errors. A small business owner that receives a no-match letter would be faced with the choice of firing the employee or following costly and burdensome requirements for resolving the no-match. The U.S. Chamber of Commerce estimates that the cost of the no-match rule would be at least \$1 billion annually. This is not a price we can afford, especially given the current condition of the American economy.

The no-match rule would also have a dramatic and harmful impact on millions of hard-working U.S. citizens who have done nothing wrong. Experts estimate that as many as 3.9 million authorized workers will be the subject of a no-match letter. And the U.S. Chamber of Commerce estimates that as many as 165,000 legal workers will be wrongfully fired if the no-match rule goes forward.

In addition to all these problems, the no-match rule would not actually improve the enforcement of our immigration laws. The Social Security Administration has repeatedly said that a no-match letter makes no statement

about a worker's immigration status. And the Social Security Administration's databases do not have complete or accurate information about workers' immigration status. In fact, according to the Social Security Administration's inspector general, at least 3.3 million records in the administration's database have incorrect citizenship information.

The no-match regulation is opposed by a broad coalition of business, labor, civil rights, and religious groups, from the Chamber of Commerce to the AFL-CIO.

The no-match rule would turn the Social Security Administration into an immigration enforcement agency. This would detract from its primary mission of administering retirement benefits for tens of millions of Americans.

The no-match rule was blocked by a court order shortly after it was issued and two years later the rule still hasn't taken effect. The court found that the rule would "result in irreparable harm to innocent workers and employers."

Yesterday, DHS Secretary Janet Napolitano announced that she plans to rescind the no-match rule. She believes that using the Social Security Administration to enforce our immigration laws is ineffective and will harm millions of innocent small business owners and employees.

Instead, Secretary Napolitano plans to use electronic verification so that employers can determine whether their employees are legally authorized to work. There is work to be done to improve the current electronic verification system but this is a much more efficient approach than dragging the Social Security Administration into immigration enforcement.

At the same time, Secretary Napolitano is taking a different approach from the previous administration when it comes to worksite enforcement. Secretary Napolitano has launched a new effort to crack down on employers who knowingly hire illegal immigrants.

This is the right approach and I commend Secretary Napolitano for seeking to rescind the no-match rule and refocus DHS on unscrupulous employers who knowingly hire illegal immigrants.

The Vitter amendment would prevent DHS from going forward with its plan to rescind the no-match rule. Congress should not micromanage DHS's efforts to enforce our immigration laws.

For these reasons, I have serious reservations about the Vitter amendment and I will urge the conferees not to include it in the conference report.

Mrs. MURRAY. Madam President, I understand this amendment is acceptable to both sides.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1375), as modified, was agreed to.

Mrs. MURRAY. I move to reconsider the vote and move to lay that motion on the table.